

## DRS SUPERVISOR'S ACCIDENT INVESTIGATION

COMPANY/DIVISION REPORTING <i>DMS Wilmington</i>		Date of the Report <u>11-08-02</u>	
NAME OF INJURED PERSON <i>John Tonner</i>		CITY - STATE <i>Wilmington Del.</i>	
ADDRESS <i>701 W. 19TH STREET</i>		JOB CLASSIFICATION	
CITY <i>Wilmington</i>		STATE <i>Del.</i>	ZIP CODE <i>19802</i>
SOCIAL SECURITY NUMBER [REDACTED]		TELEPHONE NO. <i>302-984-0650</i>	
AGE <i>39</i>		PORT NO. [REDACTED]	NUMBER OF DEPENDENTS (SPECIFY) <i>12/6/83</i>
MARRITAL STATUS <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> DIVORCED <input type="checkbox"/> SEPARATED		DATE AND TIME COMPANY NOTIFIED <i>2:50 PM</i>	
DATE AND TIME OF ACCIDENT <i>11/08/02 2:50</i>		TO/BY WHOM <i>Mr. Jackson</i>	
SCENE OF ACCIDENT (BE SPECIFIC. I.e., HATCH NO., INTERSECTION SHEET AREA, DOCK LOCATION, ETC.) <i>Aboard MV LIZARD STRAIT #2 HATCH "D" Deck</i>			
COMMODITY/CARGO <i>frozen meat</i>		LOADING <input type="checkbox"/> UNLOADING <input checked="" type="checkbox"/>	OTHER (EXPLAIN) <i>CSC MA 7</i>
SHIP/BARGE <i>MV LIZARD STRAIT</i>		SHIP FOREMAN <i>Trein Jackson</i>	HATCH FOREMAN <i>Bon Jackson</i>
SUPERVISOR <i>CLIFF LASCH</i>			
DESCRIBE ACCIDENT FULLY (GIVE DETAILS OF WHAT INJURED WAS DOING AT TIME OF ACCIDENT) <i>WHILE Climbing escape Hatch from "D" to "C" deck. Escape Hatch cover unlatched from it's securing. Mr. Tonner fell back onto "C" deck and said cover struck him in the left leg. The lower cap. man also claimed slight back ache</i>			

DATE AND TIME WORK BEGAN <i>11/08/02 7:00</i>	DATE AND TIME WORK FINISHED <i>11/08/02 3:00</i>
NATURE OF INJURIES <i>Left knee Cap and lower back</i>	
HOSPITAL/DOCTOR/PHYSICIAN <i>Christianity Care Wilmington Hospital</i>	
ADDRESS [REDACTED]	
INJURED <input type="checkbox"/> RESUMED WORK WITHOUT TREATMENT <input type="checkbox"/> RESUMED WORK AFTER TREATMENT <input type="checkbox"/> WENT HOME <input type="checkbox"/> ADMITTED TO HOSPITAL	
WITNESS - NAME AND ADDRESS - PHONE NUMBER <i>Serial Boardy</i>	
WITNESS - NAME AND ADDRESS - PHONE NUMBER <i>Anthony Fazzio</i>	

SUPERVISOR'S COMMENTS (WHY DID ACCIDENT OCCUR AND WHAT SHOULD BE DONE TO PREVENT RECURRANCE)  
*Seems as though securing pin would fall off the slot. Should be inspected before entering deck*

FOREMAN NOTIFIED  YES  NO  
*John Tonner*  
 EMPLOYEE'S SIGNATURE

SUPERVISOR'S SIGNATURE  
*Jeffrey Lasch*

LETTER-11302 *Carmela DiPierro*



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN TURNER : CIVIL ACTION  
:  
VS. :  
:  
SEATRADE :  
GRONINGER B.V. : 04-CV-0936

ORIGINAL

December 9, 2004

Oral deposition of JOHN TURNER, held in the offices of Palmer, Biezup & Henderson, 620 Chestnut Street, 956 Public Ledger Building, Philadelphia, Pennsylvania 19106, commencing at 2:10 p.m., on the above date, before Pamela J. Gober Bracic, a Federally-Approved Registered Professional Reporter and Commissioner for the Commonwealth of Pennsylvania.

ESQUIRE DEPOSITION SERVICES  
15th Floor  
1880 John F. Kennedy Boulevard  
Philadelphia, Pennsylvania 19103  
(215) 988-9191

EXHIBIT

2

1 APPEARANCES:  
 2  
 3 FREEDMAN AND LORRY, P.C.  
 4 BY: STANLEY B. GRUBER, ESQUIRE  
 Suite 900  
 400 Market Street  
 Philadelphia, Pennsylvania 19106  
 (215) 931-2510  
 Counsel for the Plaintiffs  
 6  
 7 PALMER, BIEZUP & HENDERSON  
 BY: RICHARD Q. WHELAN, ESQUIRE  
 8 620 Chestnut Street  
 9 956 Public Ledger Building  
 Philadelphia, Pennsylvania 19106  
 (215) 625-9900  
 Counsel for the Defendant  
 10  
 11 - - -  
 12  
 13  
 14  
 15  
 16  
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 22  
 23  
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2  
 1 DEPOSITION SUPPORT INDEX  
 2  
 3 Direction to Witness Not To Answer  
 4 Page Line Page Line  
 (None)  
 5  
 6  
 7  
 Request For Production of Documents  
 8 Page Line Page Line  
 (None)  
 9  
 10  
 11 Stipulations  
 12 Page Line Page Line  
 5 2-8  
 13  
 14  
 15 Questions Marked  
 16 Page Line Page Line  
 (None)  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
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3  
 1 - - -  
 2 I N D E X  
 3 WITNESS PAGE NO.  
 4 JOHN TURNER  
 5 By Mr. Whelan 5  
 6 - - -  
 7 E X H I B I T S  
 8 NO. DESCRIPTION PAGE NO.  
 9 1 Records 42  
 10 2 Photos 98  
 11 3 Accident Report 99  
 12 - - -  
 13  
 14  
 15  
 16  
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 18  
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 20  
 21  
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3  
 1 - - -  
 2 It is hereby stipulated and  
 agreed by and between counsel that  
 the reading, signing, sealing,  
 filing and certification are  
 waived; and that all objections,  
 except as to the form of  
 questions, be reserved until the  
 time of trial.)  
 - - -  
 11 JOHN TURNER, after having  
 12 been duly sworn, was examined and  
 13 testified as follows:  
 14  
 15 EXAMINATION  
 16 - - -  
 17 BY MR. WHELAN:  
 18 Q. Mr. Turner, my name is Rick  
 19 Whelan. I represent the owners of the  
 20 ship called the LUZON STRAIT. You've  
 21 filed a lawsuit against them for injuries  
 22 for your accident of November 8, 2002,  
 23 and we are here to ask you questions  
 24 about your accident, your injuries,

1 losses, et cetera  
 2 If at any time you don't  
 3 understand any of my questions, just let  
 4 me know and I will rephrase the question.  
 5 But if you don't let me know that you  
 6 didn't understand, it will be assumed  
 7 that you understood the question. Okay?  
 8 A. Yes.  
 9 Q. And any of your responses  
 10 should be verbal rather than shaking your  
 11 head or saying mm-hum so the court  
 12 reporter can get down the proper answer.  
 13 Okay?  
 14 A. Okay.  
 15 Q. If you need a break at any  
 16 time we can break either for the men's  
 17 room or whatever. If you want to rest or  
 18 take a break, let me know and we will do  
 19 that. Okay?  
 20 A. Okay.  
 21 Q. Have you ever given your  
 22 deposition before?  
 23 A. Yes.  
 24 Q. How many times?

1 Q. You are 41?  
 2 A. I will be.  
 3 Q. You will be 41?  
 4 A. Hopefully.  
 5 Q. What is your Social Security  
 6 number?  
 7 A. [REDACTED]  
 8 Q. And your port number, if you  
 9 can give it to me?  
 10 A. It's 7533.  
 11 Q. And your height?  
 12 A. Approximately six three.  
 13 Q. And weight?  
 14 A. About 230.  
 15 Q. Is that about what your  
 16 weight was on the date of the accident,  
 17 230?  
 18 A. No, no. I think I was maybe  
 19 ten pounds more.  
 20 MR. GRUBER: More or less?  
 21 THE WITNESS: More.  
 22 MR. GRUBER: I think that's  
 23 confusing. You want to know  
 24 whether he weighed more or less at

1 A. Once.  
 2 Q. Was it in a case that you  
 3 had filed before?  
 4 A. Yes.  
 5 Q. So you kind of know the  
 6 rules and the --  
 7 A. No.  
 8 Q. Well, the only rules are  
 9 basically what I'm telling you. And  
 10 just, again, I will stress if you don't  
 11 understand or it's unclear, just let me  
 12 know. Okay?  
 13 A. Okay.  
 14 Q. State your full name for the  
 15 record?  
 16 A. John A. Turner.  
 17 Q. And Mr. Turner, what is your  
 18 present home address?  
 19 A. 701 West 19th Street.  
 20 Q. Wilmington?  
 21 A. Yes, Wilmington, Delaware  
 22 19802.  
 23 Q. What is your date of birth?  
 24 A. 12/16/63.

1 the time of the accident?  
 2 BY MR. WHELAN:  
 3 Q. Right now you weigh 230?  
 4 A. Yes.  
 5 Q. Did you weigh 230 on the  
 6 date of the accident?  
 7 A. I think I weighed a little  
 8 bit more.  
 9 Q. A little bit more than that?  
 10 A. Yes.  
 11 Q. How many pounds more; about  
 12 ten, as you said?  
 13 A. Yes.  
 14 Q. So you were about 240 on the  
 15 date of the accident?  
 16 A. Yes.  
 17 Q. Give or take a few pounds?  
 18 A. Approximately, yes.  
 19 Q. How long have you been  
 20 living at the 701 West 19th Street  
 21 address?  
 22 A. Since 1995.  
 23 Q. Do you live there with  
 24 anyone?

1           **Q.** So you are a member of  
2 International Longshore Union. What  
3 local?  
4           A. 1694.  
5           **Q.** And that's the local in  
6 Wilmington?  
7           A. Yes.  
8           **Q.** How many years have you been  
9 a member of that union?  
10          A. Twenty. Almost 20.  
11          **Q.** So once you became -- got  
12 your hours, have you worked from that  
13 point in time, to date, have you worked  
14 any other job for money or compensation,  
15 other than working as a longshoreman?  
16          A. No.  
17          **Q.** When I ask that question, I  
18 include -- some people call it  
19 moonlighting, like people will work as a  
20 longshoreman and they might do plastering  
21 work or electric.  
22          A. For about a month I did work  
23 for a janitorial service. I don't  
24 remember the date. It was in the '80s.

18           1   **working as a union longshoreman?**  
1           2   A. No.  
3           **Q.** Have you ever served in the  
4 Armed Services of the United States?  
5           A. No.  
6           **Q.** Have you ever applied for or  
7 received Social Security disability  
8 benefits?  
9           A. Yes.  
10          **Q.** Which one; have you applied  
11 or received or both?  
12          A. I applied for disability.  
13 Social Security is what I get now.  
14          **Q.** You applied for Social  
15 Security disability?  
16          A. Yes.  
17          **Q.** And you are receiving it  
18 now?  
19          A. Yes.  
20          **Q.** How much do you receive by  
21 way of those benefits either monthly or  
22 weekly?  
23          A. Monthly.  
24          **Q.** And what is it a month?

19           1   **Q.** And since your accident on  
2 November 8, 2002, have you worked  
3 anywhere for money, been employed or  
4 worked anywhere for money?  
5          A. No.  
6          **Q.** You have been just  
7 collecting the Harbor Workers'  
8 Compensation Act compensation on a weekly  
9 basis?  
10          A. Yes.  
11          **Q.** What is the name of the  
12 janitorial service you worked for?  
13          A. I don't remember.  
14          **Q.** Where was it located?  
15          A. It was up on -- I don't  
16 remember the proper name. It was --  
17 might have been Star Janitorial. It was  
18 up on -- it was a building like ICI. We  
19 were cleaning out offices at night. I  
20 did it for about a month.  
21          **Q.** Now, we got to the point  
22 where you became a regular for the union.  
23 You haven't had any education, vocational  
24 training or anything since you've been

21           1   A. I think it's 1,576 or 1,578.  
2          **Q.** One thousand, five hundred  
3 and seventy-eight dollars a month?  
4          A. Yes.  
5          **Q.** When did you start receiving  
6 that?  
7          A. June of '03.  
8          MR. GRUBER: I thought it  
9 was '04.  
10          MR. WHELAN: If you know,  
11 Stan, just tell me.  
12          THE WITNESS: It's this  
13 year, '04.  
14 BY MR. WHELAN:  
15          **Q.** We are just doing background  
16 questions, and if you are not sure or  
17 whatever, ask Mr. Gruber.  
18          A. June '04. This year.  
19          **Q.** Now, at the time of your  
20 accident, were you a regular in what they  
21 call the Jackson gang, a regular gang  
22 member?  
23          A. No.  
24          **Q.** Were you a regular in any

1 part time.

2       **Q. A couple of months or**  
3       **something?**

4       A. Yes. It was like, I went to  
5 work for a couple days and went to the  
6 docks for a couple of days.

7       **Q. Would it be accurate to say**  
8       **that after you came back from college you**  
9       **did some part-time work with your father,**  
10      **with the landscaping?**

11      A. Yes.

12      **Q. And at the same time when**  
13     **you got work on the docks, you would take**  
14     **that work, as well?**

15      A. Sometimes, yes.

16      **Q. Did there come a point in**  
17     **time when you got a permanent job and all**  
18     **you were doing was working on the**  
19     **waterfront?**

20      A. No. Everything was causal  
21 at that time.

22      **Q. Did you work any other jobs**  
23     **other than the landscaping job and the**  
24     **causal longshore work during that time**

1       A. Yes.

2       **Q. And then at the same time**  
3       **during that time period were you also**  
4       **working on the docks?**

5       A. Yes.

6       **Q. Were you also working**  
7       **landscaping?**

8       A. No.

9       **Q. So it was just the docks and**  
10      **at Chrysler?**

11      A. Yes.

12      **Q. Then after that what was**  
13     **your work situation, after those two**  
14     **years?**

15      A. I stayed at the docks.

16      **Q. And have you been working at**  
17     **the docks ever since?**

18      A. Yes.

19      **Q. When you first came back**  
20     **from college and you went down to the**  
21     **docks, as you described it, did you have**  
22     **a connection down there, like a family**  
23     **member or an aunt or an uncle or somebody**  
24     **who got you into the union?**

1       **period?**

2       A. Prior to when I came home?

3       **Q. After you came home.**

4       A. I worked for Chrysler for  
5 about a year, maybe a year and a half. I  
6 can't remember the dates.

7       **Q. Was that a full-time**  
8       **position?**

9       A. Part time.

10      **Q. What did you do for them?**

11      A. I used to make doors, put  
12 the headers on the doors. Like a  
13 subassembly job.

14      **Q. Where was the Chrysler**  
15     **facility located?**

16      A. Newark, Delaware.

17      **Q. When you say part time, how**  
18     **many hours would you work a week,**  
19     **approximately?**

20      A. I don't remember. It might  
21 have been three days a week. I can't  
22 remember exactly.

23      **Q. And how long did you do**  
24     **that, a couple of years, you said?**

15      A. I didn't have any family  
2 members, no.

3       **Q. Did you have friends?**

4       A. Yes.

5       **Q. Who was the person that got**  
6       **you in?**

7       A. Mr. Jackson.

8       **Q. And how did you know him?**

9       A. He knew my parents, and I  
10 came home from school and he said --  
11 asked me did I want to work, make some  
12 money. And I said yes. And he got me a  
13 job down there throwing bananas.

14      **Q. And this is Mr. Jackson,**  
15     **Junior?**

16      A. Yes.

17      **Q. Was he the gang boss that**  
18     **you would work for when you worked on the**  
19     **waterfront, typically?**

20      A. Yes, sometimes.

21      **Q. So after the two years, then**  
22     **you became regular on the waterfront?**

23      A. Yes. I made my hours and  
24 joined the union.

1 losses, et cetera  
 2 If at any time you don't  
 3 understand any of my questions, just let  
 4 me know and I will rephrase the question.  
 5 But if you don't let me know that you  
 6 didn't understand, it will be assumed  
 7 that you understood the question. Okay?  
 8 A. Yes.  
 9 Q. And any of your responses  
 10 should be verbal rather than shaking your  
 11 head or saying mm-hum so the court  
 12 reporter can get down the proper answer.  
 13 Okay?  
 14 A. Okay.  
 15 Q. If you need a break at any  
 16 time we can break either for the men's  
 17 room or whatever. If you want to rest or  
 18 take a break, let me know and we will do  
 19 that. Okay?  
 20 A. Okay.  
 21 Q. Have you ever given your  
 22 deposition before?  
 23 A. Yes.  
 24 Q. How many times?

1 Q. You are 41?  
 2 A. I will be.  
 3 Q. You will be 41?  
 4 A. Hopefully.  
 5 Q. What is your Social Security  
 6 number?  
 7 A. 222-46-7533.  
 8 Q. And your port number, if you  
 9 can give it to me?  
 10 A. It's 7533.  
 11 Q. And your height?  
 12 A. Approximately six three.  
 13 Q. And weight?  
 14 A. About 230.  
 15 Q. Is that about what your  
 16 weight was on the date of the accident,  
 17 230?  
 18 A. No, no. I think I was maybe  
 19 ten pounds more.  
 20 MR. GRUBER: More or less?  
 21 THE WITNESS: More.  
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 23 confusing. You want to know  
 24 whether he weighed more or less at

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 2 Q. Was it in a case that you  
 3 had filed before?  
 4 A. Yes.  
 5 Q. So you kind of know the  
 6 rules and the --  
 7 A. No.  
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 9 basically what I'm telling you. And  
 10 just, again, I will stress if you don't  
 11 understand or it's unclear, just let me  
 12 know. Okay?  
 13 A. Okay.  
 14 Q. State your full name for the  
 15 record?  
 16 A. John A. Turner.  
 17 Q. And Mr. Turner, what is your  
 18 present home address?  
 19 A. 701 West 19th Street.  
 20 Q. Wilmington?  
 21 A. Yes, Wilmington, Delaware  
 22 19802.  
 23 Q. What is your date of birth?  
 24 A. 12/16/63.

9  
 1 the time of the accident?  
 2 BY MR. WHELAN:  
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 4 A. Yes.  
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 6 date of the accident?  
 7 A. I think I weighed a little  
 8 bit more.  
 9 Q. A little bit more than that?  
 10 A. Yes.  
 11 Q. How many pounds more; about  
 12 ten, as you said?  
 13 A. Yes.  
 14 Q. So you were about 240 on the  
 15 date of the accident?  
 16 A. Yes.  
 17 Q. Give or take a few pounds?  
 18 A. Approximately, yes.  
 19 Q. How long have you been  
 20 living at the 701 West 19th Street  
 21 address?  
 22 A. Since 1995.  
 23 Q. Do you live there with  
 24 anyone?

1 A. My wife and four children.  
 2 Q. What is your wife's name?  
 3 A. Nanette Turner, Nanette M.  
 4 Turner, N-A-N-E-T-T-E.  
 5 Q. How many years have you been  
 6 married or when did you get married? I  
 7 don't want to put you in a bad spot here.  
 8 A. We have been together since  
 9 high school.  
 10 Q. And your children's names?  
 11 A. Tasha, John, Steven and  
 12 Daniel.  
 13 Q. And could you give me their  
 14 ages?  
 15 A. Tasha is 20, John is 17,  
 16 Steven is 16 and Daniel is 14.  
 17 Q. And are all of those  
 18 children living with you presently?  
 19 A. Yes, sir.  
 20 Q. Are they all dependent upon  
 21 you or is Tasha independent at age 20?  
 22 A. She depends on me, she's in  
 23 college.  
 24 Q. What high school did you

10 1 anything?  
 12 A. No  
 13 Q. Did you successfully  
 14 complete that semester or not?  
 15 A. I don't remember. I think  
 16 when I came home I didn't go back.  
 17 Q. So did you go through to  
 18 Christmas and then you didn't go back?  
 19 A. Yes. I came home around  
 20 December.  
 21 Q. Why didn't you go back?  
 22 A. I started a family.  
 23 Q. So after you came back --  
 24 I'm sorry, I didn't mean to interrupt  
 15 you.  
 16 A. That's okay.  
 17 Q. First of all, while you were  
 18 at this college in South Carolina, were  
 19 you employed in any way or were you just  
 20 going to school and playing basketball?  
 21 A. Just going to school and  
 22 playing basketball.  
 23 Q. When you came back in  
 24 December, what was your first job after

1 graduate from?  
 2 A. Delcastle Technical High  
 3 School.  
 4 Q. What year did you graduate?  
 5 A. 1982.  
 6 Q. And after you graduated from  
 7 Delcastle Vo-tech High School, did you  
 8 have any subsequent education or  
 9 training?  
 10 A. Yes, I went one year to  
 11 Denmark Vo-tech. It's in --  
 12 Q. Where is it located?  
 13 A. In South Carolina.  
 14 Q. What did you study there?  
 15 A. Really nothing.  
 16 Q. Why did you go? What was  
 17 the reason for going there, what were you  
 18 trying to get experience in?  
 19 A. Actually, I got a  
 20 scholarship for basketball, really.  
 21 Q. Is that a four-year college  
 22 or a junior college?  
 23 A. I think junior college.  
 24 Q. Did you have a major or

11 13 you got back home? I want to take you  
 2 through your employment history up to  
 3 when you became a longshoreman.  
 4 A. When I came back I went down  
 5 to the docks. At that time they were  
 6 selling banana boxes on the Del Monte  
 7 ship at the time.  
 8 Q. So you went right to work as  
 9 a longshoreman when you got back?  
 10 A. Not right back.  
 11 Q. Your first job --  
 12 A. My first job after I came  
 13 back from school, I was working for my  
 14 father part time.  
 15 Q. What was that job?  
 16 A. Landscaping.  
 17 Q. Does he have a landscaping  
 18 business?  
 19 A. Yes. He was working for  
 20 Stires at the time. J. Franklin Stires  
 21 on 202.  
 22 Q. And how long did you do that  
 23 before you went to the docks?  
 24 A. I don't remember. It was

1 part time.

2       **Q. A couple of months or**  
3       **something?**

4       A. Yes. It was like, I went to  
5 work for a couple days and went to the  
6 docks for a couple of days.

7       **Q. Would it be accurate to say**  
8       **that after you came back from college you**  
9       **did some part-time work with your father,**  
10      **with the landscaping?**

11      A. Yes.

12      **Q. And at the same time when**  
13     **you got work on the docks, you would take**  
14     **that work, as well?**

15      A. Sometimes, yes.

16      **Q. Did there come a point in**  
17     **time when you got a permanent job and all**  
18     **you were doing was working on the**  
19     **waterfront?**

20      A. No. Everything was causal  
21 at that time.

22      **Q. Did you work any other jobs**  
23     **other than the landscaping job and the**  
24     **causal longshore work during that time**

1       A. Yes.

2       **Q. And then at the same time**  
3       **during that time period were you also**  
4       **working on the docks?**

5       A. Yes.

6       **Q. Were you also working**  
7       **landscaping?**

8       A. No.

9       **Q. So it was just the docks and**  
10      **at Chrysler?**

11      A. Yes.

12      **Q. Then after that what was**  
13     **your work situation, after those two**  
14     **years?**

15      A. I stayed at the docks.

16      **Q. And have you been working at**  
17     **the docks ever since?**

18      A. Yes.

19      **Q. When you first came back**  
20     **from college and you went down to the**  
21     **docks, as you described it, did you have**  
22     **a connection down there, like a family**  
23     **member or an aunt or an uncle or somebody**  
24     **who got you into the union?**

15      **period?**

2       A. Prior to when I came home?

3       **Q. After you came home.**

4       A. I worked for Chrysler for  
5 about a year, maybe a year and a half. I  
6 can't remember the dates.

7       **Q. Was that a full-time**  
8       **position?**

9       A. Part time.

10      **Q. What did you do for them?**

11      A. I used to make doors, put  
12 the headers on the doors. Like a  
13 subassembly job.

14      **Q. Where was the Chrysler**  
15      **facility located?**

16      A. Newark, Delaware.

17      **Q. When you say part time, how**  
18     **many hours would you work a week,**  
19     **approximately?**

20      A. I don't remember. It might  
21 have been three days a week. I can't  
22 remember exactly.

23      **Q. And how long did you do**  
24     **that, a couple of years, you said?**

1       A. I didn't have any family  
2 members, no.

3       **Q. Did you have friends?**

4       A. Yes.

5       **Q. Who was the person that got**  
6       **you in?**

7       A. Mr. Jackson.

8       **Q. And how did you know him?**

9       A. He knew my parents, and I  
10 came home from school and he said --  
11 asked me did I want to work, make some  
12 money. And I said yes. And he got me a  
13 job down there throwing bananas.

14      **Q. And this is Mr. Jackson,**  
15      **Junior?**

16      A. Yes.

17      **Q. Was he the gang boss that**  
18     **you would work for when you worked on the**  
19     **waterfront, typically?**

20      A. Yes, sometimes.

21      **Q. So after the two years, then**  
22     **you became regular on the waterfront?**

23      A. Yes. I made my hours and  
24 joined the union.

1       Q. So you are a member of  
2 International Longshore Union. What  
3 local?

4       A. 1694.

5       Q. And that's the local in  
6 Wilmington?

7       A. Yes.

8       Q. How many years have you been  
9 a member of that union?

10      A. Twenty. Almost 20.

11      Q. So once you became -- got  
12 your hours, have you worked from that  
13 point in time, to date, have you worked  
14 any other job for money or compensation,  
15 other than working as a longshoreman?

16      A. No.

17      Q. When I ask that question, I  
18 include -- some people call it  
19 moonlighting, like people will work as a  
20 longshoreman and they might do plastering  
21 work or electric.

22      A. For about a month I did work  
23 for a janitorial service. I don't  
24 remember the date. It was in the '80s.

18      1       working as a union longshoreman?

2       2       A. No.

3       3       Q. Have you ever served in the  
4 Armed Services of the United States?

5       4       A. No.

6       5       Q. Have you ever applied for or  
7 received Social Security disability  
8 benefits?

9       6       A. Yes.

10      7       Q. Which one; have you applied  
11 or received or both?

12      8       A. I applied for disability.  
13 Social Security is what I get now.

14      9       Q. You applied for Social  
15 Security disability?

16      10      A. Yes.

17      11      Q. And you are receiving it  
18 now?

19      12      A. Yes.

20      13      Q. How much do you receive by  
21 way of those benefits either monthly or  
22 weekly?

23      14      A. Monthly.

24      15      Q. And what is it a month?

19      1       Q. And since your accident on  
2 November 8, 2002, have you worked  
3 anywhere for money, been employed or  
4 worked anywhere for money?

5       5       A. No.

6       6       Q. You have been just  
7 collecting the Harbor Workers'  
8 Compensation Act compensation on a weekly  
9 basis?

10      7       A. Yes.

11      8       Q. What is the name of the  
12 janitorial service you worked for?

13      9       A. I don't remember.

14      10      Q. Where was it located?

15      11      A. It was up on -- I don't  
16 remember the proper name. It was --  
17 might have been Star Janitorial. It was  
18 up on -- it was a building like ICI. We  
19 were cleaning out offices at night. I  
20 did it for about a month.

21      21      Q. Now, we got to the point  
22 where you became a regular for the union.  
23 You haven't had any education, vocational  
24 training or anything since you've been

21      1       A. I think it's 1,576 or 1,578.

2       2       Q. One thousand, five hundred  
3 and seventy-eight dollars a month?

4       4       A. Yes.

5       5       Q. When did you start receiving  
6 that?

7       6       A. June of '03.

8       7       MR. GRUBER: I thought it  
9 was '04.

10      8       MR. WHELAN: If you know,  
11 Stan, just tell me.

12      9       THE WITNESS: It's this  
13 year, '04.

14      10      BY MR. WHELAN:

15      11      Q. We are just doing background  
16 questions, and if you are not sure or  
17 whatever, ask Mr. Gruber.

18      12      A. June '04. This year.

19      13      Q. Now, at the time of your  
20 accident, were you a regular in what they  
21 call the Jackson gang, a regular gang  
22 member?

23      14      A. No.

24      15      Q. Were you a regular in any

1     **gang?**  
 2     A. Yes.  
 3     **Q. Which gang were you a**  
 4     **regular in?**  
 5     A. Rice.  
 6     **Q. Is that Albert Rice?**  
 7     A. Exactly.  
 8     **Q. On the date of the accident**  
 9     **were you working for the Rice gang or the**  
 10    **Jackson gang?**  
 11    A. Jackson gang.  
 12    **Q. So you would get picked up**  
 13    **by Jackson if Rice wasn't working that**  
 14    **day, you would get picked up as an extra?**  
 15    A. That's correct.  
 16    **Q. Is that what happened on the**  
 17    **date of the accident?**  
 18    A. Yes.  
 19    **Q. And what is your job in the**  
 20    **Rice gang; holdman, deckman?**  
 21    A. Deckman, crane driver.  
 22    **Q. What was your job in the**  
 23    **Jackson gang on the date of the accident?**  
 24    A. Hddman.

22  
 1     - - -  
 2     (Whereupon, a discussion was  
 3     held off the record.)  
 4     - - -  
 5     BY MR. WHELAN:  
 6     **Q. On the date of your**  
 7     **accident, your employer, your stevedoring**  
 8     **company, was Delaware River Stevedores,**  
 9     **Incorporated?**  
 10    A. Yes.  
 11    **Q. Have you ever, Mr. Turner,**  
 12    **applied for or received unemployment**  
 13    **compensation benefits?**  
 14    A. Yes.  
 15    **Q. When is the last time you**  
 16    **did that?**  
 17    A. In the '80s, mid '80s.  
 18    **Q. Where would the office be**  
 19    **where you would have applied for that?**  
 20    A. Unemployment office?  
 21    **Q. Yes. Where would you go in**  
 22    **Delaware? I'm assuming you have to go**  
 23    **somewhere and fill out a form and submit**  
 24    **it.**

23  
 1     **Q. You had worked as a holdman**  
 2     **before the day of the accident on other**  
 3     **ships?**  
 4     A. Yes.  
 5     **Q. About how many times in your**  
 6     **career, before the date of the accident,**  
 7     **do you think or however you can quantify**  
 8     **it --**  
 9     A. All of them.  
 10    **Q. You've worked all jobs?**  
 11    A. Yes.  
 12    **Q. And you had hundreds of days**  
 13    **of experience as a holdman before the**  
 14    **date of your accident?**  
 15    A. Yes. I started as a  
 16    holdman.  
 17    **Q. How many years did you work**  
 18    **as a holdman in your 20-year period**  
 19    **before you became a deckman?**  
 20    A. Ten, maybe. Just guessing.  
 21    **Q. Is the Jackson gang a house**  
 22    **gang for Dole or any other company?**  
 23    A. No.  
 24    MR. GRUBER: Of the record.

25  
 1     A. It's been so long. It used  
 2     to be on Lancaster Avenue. I don't know  
 3     where it's at now.  
 4     **Q. In Wilmington?**  
 5     A. Yes. Now it's in the city  
 6     somewhere, but I don't know where it's  
 7     at.  
 8     **Q. Have you applied for or**  
 9     **received unemployment benefits since the**  
 10    **date of your accident, November 2, 2002?**  
 11    A. No. November 8th.  
 12    **Q. No?**  
 13    A. No.  
 14    **Q. You haven't worked at all**  
 15    **since the date of your accident. Is that**  
 16    **correct?**  
 17    A. That's correct.  
 18    **Q. Now, with regard to the**  
 19    **injuries that you sustained on November**  
 20    **8, 2002, can you tell us what parts of**  
 21    **your body you injured that day?**  
 22    A. My back, my leg and my knee.  
 23    **Q. Let's start with the back.**  
 24    **Where in the back is it; low back,**

1   **mid-back, upper back?**  
 2   A. Lower back.  
 3   **Q. And the leg, which leg?**  
 4   A. Left.  
 5   **Q. And which knee?**  
 6   A. Left.  
 7   **Q. Any other parts of your body**  
 8   **that were injured that day?**  
 9   A. No. Well, no.  
 10   **Q. Now, as you sit here today,**  
 11   **have you taken any prescription**  
 12   **medication before you came here?**  
 13   A. Yes.  
 14   **Q. What drugs have you taken?**  
 15   A. Celebrex this morning, I  
 16   took a half of a Percocet. I just took  
 17   another half about half an hour ago.  
 18   **Q. Are any of these drugs or**  
 19   **the effects from them making it so you**  
 20   **can't testify or can't understand my**  
 21   **questions? Do you feel like you are**  
 22   **okay?**  
 23   A. Well, I'm dizzy, but, you  
 24   know.

1   A. Yes.  
 2   **Q. Anything else? Not that**  
 3   **that isn't enough.**  
 4   A. My back is bothering me.  
 5   **Q. You have pain in your low**  
 6   **back?**  
 7   A. Yes.  
 8   **Q. If you could describe for me**  
 9   **where the pain is in your low back; is it**  
 10   **at the beltline, below the beltline,**  
 11   **above the beltline?**  
 12   A. My lower back. I don't know  
 13   where the beltline is.  
 14   **Q. If you look at where my**  
 15   **beltline is, on your body --**  
 16   A. Approximately where your  
 17   beltline is.  
 18   **Q. About the beltline there?**  
 19   A. Yes.  
 20   **Q. Now, before November 8,**  
 21   **2002, had you ever experienced pain in**  
 22   **your low back?**  
 23   A. Yes.  
 24   **Q. When was that?**

27  
 1   **Q. If you feel that the effects**  
 2   **of the drugs or whatever are interfering**  
 3   **with your ability for you to understand**  
 4   **my questions and answer them, let me**  
 5   **know. Okay?**  
 6   A. Okay.  
 7   **Q. Or let your attorney know**  
 8   **and he can let me know. All right?**  
 9   A. All right.  
 10   **Q. Now, sitting here today are**  
 11   **you experiencing any pain?**  
 12   A. Yes.  
 13   **Q. Where do you presently feel**  
 14   **the pain?**  
 15   A. My inner thigh, leg.  
 16   **Q. That's left?**  
 17   A. Yes, left leg. My lower  
 18   back, my foot is numb.  
 19   **Q. Is that your left foot?**  
 20   A. Left foot is numb. I feel a  
 21   burning and tingling sensation in my  
 22   foot. It's getting ready to rain or  
 23   something.  
 24   **Q. Left foot?**

29  
 1   A. In 1998, 1999, in that  
 2   period.  
 3   **Q. And what was the problem?**  
 4   A. I was in an automobile  
 5   accident.  
 6   **Q. Were you rear-ended?**  
 7   A. Yes, sir.  
 8   **Q. What was the date of that**  
 9   **accident?**  
 10   A. I'm not quite sure of the  
 11   date. I think it was May of '98 or '97  
 12   or '98. In that area, in the '90s.  
 13   **Q. In your Answers to**  
 14   **Interrogatories you indicate that you**  
 15   **filed an underinsured motorist claim as a**  
 16   **result of a 1999 motor vehicle accident.**  
 17   A. Okay.  
 18   **Q. And you filed an arbitration**  
 19   **in the Superior Court of Wilmington, and**  
 20   **the claim was settled for policy limits.**  
 21   **And you were represented by Vincent**  
 22   **Romano. Is that the accident you are**  
 23   **talking about?**  
 24   A. Yes, sir.



1       Q. Other than Dr. Song, did you  
2 receive treatment anywhere else for those  
3 injuries from the 1999 automobile  
4 accident?

5       A. No, sir.

6       Q. Other than that accident,  
7 before November 8, 2002, the accident you  
8 are here to testify to today, had you  
9 been in any other accidents where you  
10 hurt your back?

11      A. No, not that I remember.

12      Q. Before this accident, had  
13 you ever received any medical treatment  
14 from any doctors, physical therapists, et  
15 cetera, for problems with your left leg  
16 or knee?

17      A. Before the accident?

18      Q. Right.

19      A. No.

20      Q. For example, in basketball  
21 did you ever sprain your left knee or  
22 have a problem with your left knee?

23      A. No.

24      Q. In connection with your 1999

1       x-rays or MRIs of the left leg or left  
2 knee before your accident on the LUZON  
3 STRAIT?

4       A. No.

5       Q. After the automobile  
6 accident, did you miss any work as a  
7 longshoreman?

8       A. Yes.

9       Q. How long were you out of  
10 work?

11      A. A few months, give or take.

12      Q. A few months?

13      A. Yes.

14      Q. Now, have you ever received  
15 treatment for drug, alcohol or substance  
16 abuse in your lifetime?

17      A. Never.

18      Q. On the date of this  
19 accident, had you taken any type of drug  
20 or substance or alcohol before your  
21 accident occurred?

22      A. No.

23      Q. Have you ever been treated  
24 by a chiropractor in your lifetime?

35     1       automobile accident, did you have an MRI  
2 scan of your back?

3       A. No, sir.

4       Q. Had you ever, before the  
5 accident of November 8, 2002, when you  
6 got hurt on the LUZON STRAIT, had you  
7 ever had an MRI of your back?

8       A. No, sir.

9       Q. What about of prior to the  
10 date of the accident, had you ever had an  
11 MRI or x-ray of your left knee or left  
12 leg?

13      A. Prior to the accident of  
14 November 8, 2002?

15      Q. Yes.

16      A. I think I might have had an  
17 x-ray of my leg -- my knee.

18      Q. And when would that have  
19 been, and for what?

20      A. That would have been either  
21 from the car accident -- I'm not sure.  
22 Yes, that would be from the accident with  
23 the car.

24      Q. Other than that, any other

1       A. No.

2       Q. Prior to November 8, 2002,  
3 have you ever had an EMG or a nerve  
4 conduction study?

5       A. I don't remember.

6       Q. Now, before November 8,  
7 2002, had you ever received treatment for  
8 any type of chronic condition, like  
9 cancer or anemia or something of that  
10 nature?

11      A. No, sir.

12      Q. Have you ever been  
13 hospitalized between, say, when you  
14 graduated from college up until the time  
15 of the accident on November 8, 2002?

16      A. I never graduated from  
17 college.

18      Q. From the time you left  
19 college up until the accident of November  
20 8, 2002.

21      A. No.

22      Q. Had you ever had any  
23 surgeries at all before November 8, 2002?

24      A. No, sir.

1           **Q.** Other than the car accident  
 2 and this accident of November 8, 2002,  
 3 have you ever had any visits to the  
 4 emergency room?

5           A. I think one time. I don't  
 6 remember the date. It was the flu, the  
 7 first time I ever caught the flu.

8           **Q.** Where did you go, Wilmington  
 9 Hospital?

10          A. Yes, sir.

11          **Q.** When was that?

12          A. I don't remember the date.

13          **Q.** Was it recently?

14          A. No. Back in the '80s. I  
 15 think the last time I was sick -- well.

16          **Q.** Your family doctor is Dr.  
 17 Song. That's who you would go to if you  
 18 had the flu or a problem, assuming he was  
 19 open at the time?

20          A. Yes.

21          **Q.** How many years has Dr. Song  
 22 been your family doctor?

23          A. I think since I was 14.

24          **Q.** Did you ever file a lawsuit?

1 what happened.

2           **Q.** Some kind of injury to your  
 3 hand?

4           A. Yes.

5           **Q.** Do you remember which hand,  
 6 right or left?

7           A. I don't remember.

8           **Q.** What company were you  
 9 working for?

10          A. I think at the time it was  
 11 Wilmington Stevedores.

12          **Q.** Did you get treatment from a  
 13 doctor for that injury?

14          A. I think so. I don't  
 15 remember, to be honest. I probably got  
 16 treated, but I don't remember.

17          **Q.** You can't recall who the  
 18 doctor was?

19          A. I don't remember. I don't  
 20 know if I went to the emergency room or  
 21 whatever. It's been a long time.

22          **Q.** Now, since your accident of  
 23 November 8, 2002, have you had any other  
 24 accidents where you've aggravated these

39          1   **You filed an arbitration in connection  
 2 with your automobile accident. Is that  
 3 right?**

4          A. Yes.

5          **Q.** Other than this lawsuit,  
 6 have you ever filed a lawsuit in your  
 7 lifetime for injuries or for any other  
 8 reason?

9          A. No, sir.

10         **Q.** Have you ever been sued?

11         A. No.

12         **Q.** I mean as a defendant.

13         A. No.

14         **Q.** Other than this accident on  
 15 November 8, 2002, have you ever collected  
 16 compensation benefits from your stevedore  
 17 employer under the Longshoreman's Act?

18         A. Yes.

19         **Q.** Tell me about that.

20         A. I collected. It was back in  
 21 the '80s. I don't quite remember what  
 22 happened to me. I collected for maybe  
 23 two or three months. I think something  
 24 to do with my hand. I'm not quite sure

41          1   **injuries, like falling down or some sort  
 2 of accident like that?**

3          A. No.

4          **Q.** Now, before your accident of  
 5 November 8, 2002, had you regularly  
 6 worked on refrigerated ships that came  
 7 into Wilmington that had either fruit or  
 8 meat or fish?

9          A. Yes.

10         **Q.** So this was nothing new to  
 11 you, the LUZON STRAIT, to go aboard and  
 12 work on a reefer ship?

13         A. The ship was new. I'd been  
 14 working on ships.

15         **Q.** The ship was new, you had  
 16 never worked on what ship before?

17         A. Right. I had never worked  
 18 on that ship before.

19         **Q.** You said you had worked  
 20 regularly as a holdman before your  
 21 accident of November 8, 2002. Does that  
 22 mean that you regularly would climb up  
 23 and down ship's ladders and go through  
 24 access ways or manholes that had covers

1      on them to get to and from cargo holds?

2      A. Yes.

3      Q. So that's something you had  
4      a lot of experience with?

5      A. Yes.

6      Q. Now, I'm trying to find out  
7      the schedule of the ship. The date of  
8      your accident, was that your first day of  
9      work aboard the ship or had you worked  
10     previous days?

11     A. I had work a previous day.

12     Q. Just one previous day?

13     A. I'm not sure. My gang was  
14     on it for one day. Number one hatch.

15     Q. For one day at number one  
16     hatch?

17     A. I think so, yes.

18     Q. And that would be the day  
19     before the accident, November 7th?

20     A. Yes, sir, I think that's  
21     correct.

22     MR. WHELAN: Let's mark this  
23     as Turner Exhibit-1.

24     - - -

1      Q. November 6th. That would  
2      have been two days before your accident.

3      A. I don't know if my gang  
4      worked it or not. I'm not quite sure if  
5      I worked it that day or I might have been  
6      ordered out on the crane somewhere else  
7      and came back the next day. I'm not  
8      quite sure about November 6th. If my  
9      gang was on it, I probably would have  
10     worked it. Rice's gang.

11     Q. You had testified that on  
12     the date of your accident, you were  
13     working for the Jackson gang. Is that  
14     correct?

15     A. That's correct.

16     Q. So would all of your work  
17     aboard the ship been for the Jackson  
18     gang?

19     A. No.

20     Q. So it's your best  
21     recollection that you only worked on  
22     November 7th and November 8th?

23     A. To the best of my knowledge.  
24     I'm not quite sure. I would really have

43

1      (Whereupon, Exhibit Turner-1  
2      was marked for identification.)

3      - - -

4      BY MR. WHELAN:

5      Q. We have marked as Turner  
6      Exhibit-1 a group of Delaware Stevedores,  
7      Incorporated records, and it consists of  
8      ten pages. I want you to focus on a page  
9      in the back here. There's a page of  
10     handwritten records. It looks like it's  
11     the fourth one from the bottom.

12     MR. GRUBER: What is the  
13     date on it?

14     BY MR. WHELAN:

15     Q. It says Wednesday, November  
16     6th, and then LUZON STRAIT. Now, it  
17     appears to me that's the first day of  
18     work aboard the ship, Mr. Turner.

19     Can you tell me from that  
20     document whether your gang worked that  
21     day, November 6th?

22     A. We would have worked number  
23     one hatch the first day. What is the  
24     date on that?

45

1      to look through my book. I don't  
2      remember if I worked it on the 6th. If  
3      my gang was on it, I probably would have  
4      been on the crane.

5      Q. On the crane?

6      A. Yes.

7      Q. And what crane would that  
8      have been?

9      A. Number one elevator or  
10     crane, whatever they want to describe it  
11     as.

12     Q. Can you describe that for  
13     us? Do you remember operating that  
14     crane?

15     A. Yes.

16     Q. Which day did you operate  
17     the crane, if you remember; was it the  
18     day of your accident?

19     A. Not the day of the accident,  
20     it would have been the day before, which  
21     would have been the 7th. I remember  
22     operating it on the 7th, because number  
23     one hatch was difficult. It was an easy  
24     thing to operate, but they made sure I

1 was there because of -- whoever the  
 2 deckie was -- instead of using the button  
 3 they did it manually, they used the  
 4 levers, the joy sticks.

5 Q. There's a page dated  
 6 November 7th, handwritten page, that  
 7 looks like about the fifth page from the  
 8 bottom. At the top left side it has  
 9 number one hatch and then Rice, with two  
 10 lines under it. Is that correct?

11 A. Yes.

12 Q. So you would have worked  
 13 November 7th for the Rice gang?

14 A. Yes.

15 Q. It looks like they started  
 16 at number one, shifted to number two,  
 17 back to number one and then shifted to  
 18 number two?

19 A. Yes. If that's what they  
 20 have down, yes.

21 Q. So that day you would have  
 22 been only operating the crane?

23 A. Yes.

24 Q. You wouldn't have been in

1 Q. And did you, starting at  
 2 seven o'clock, work as a holdman?

3 A. Yes.

4 Q. Do you remember going down  
 5 into the number three hatch?

6 A. I would have been on the  
 7 second shift. So I would have went down  
 8 at 9:30, probably to 11:00, on the number  
 9 three. That's probably what I did. Came  
 10 up -- we probably finished that hatch,  
 11 evidently. We never went back in there.  
 12 And we went down number two.

13 I don't remember if it was  
 14 broken open or -- I don't remember if it  
 15 was broken open. I remember going down,  
 16 and we brought the machine in. They had  
 17 the bring the machines in from hatch  
 18 three, take them out and bring them down  
 19 to hatch two and put them on the plate,  
 20 lift them on, bring them in, take them  
 21 off and then we would load the plate as  
 22 it would go outside instead of wasting  
 23 time.

24 Do you follow me?

47 1 the hold at all?

2 A. Yes.

3 Q. The first day you would been  
 4 in the hold was the November 8, 2002, the  
 5 day of the accident, when you were on the  
 6 Jackson gang?

7 A. Yes.

8 Q. Now, on that date, November  
 9 8, 2002, the top page says that cargo  
 10 operations started number three, 7:00  
 11 a.m., and went to 11:00 a.m. and then it  
 12 went from number two, 11:00 a.m. to 3:00  
 13 p.m. Does that refer to the Jackson  
 14 gang?

15 A. Yes, sir.

16 Q. Is the Jackson gang the only  
 17 gang that was called back for that last  
 18 day?

19 A. Yes, sir.

20 Q. And did you reportto work  
 21 prior to 7:00 in the morning for the  
 22 Jackson gang?

23 A. That's when Iwas hired to  
 24 work that morning.

49 1 Q. Yes.

2 What was the cargo you were  
 3 discharging?

4 A. Meat.

5 Q. Frozen meat?

6 A. Yes.

7 Q. Was it in pallets?

8 A. Yes.

9 Q. And when you were in he  
 10 number three hatch, starting from 9:30 to  
 11 11:00, were you spelling; not all of the  
 12 men were working at the same time?

13 A. Yes.

14 Q. Who was in your spelling  
 15 shift of holdmen, if you can recall?

16 A. Let's see. I was Grinnel  
 17 Williams, Gregory Ringgold, Sean Brady,  
 18 Anthony Frazier was down there, and I  
 19 believe me and Ron shared the same  
 20 machine. So I relieved Ron Anderson.

21 Q. So you were a brklift  
 22 driver at that time?

23 A. Yes.

24 Q. And that would have been

1 when you worked in number three and  
2 number two?

3 A. Yes, sir.

4 Q. Why don't you just tell me  
5 what your spelling shifts were. We  
6 already have the first one, 9:00 to  
7 11:00. And then were you off for a  
8 period of time?

9 A. From 12:00 to 1:00 we broke  
10 for lunch.

11 Q. So you were off from 11 --

12 A. No, I was still working. I  
13 was off from 12:00 to 1:00. I came back  
14 at one o'clock, because Mr. Jackson said,  
15 I want everybody back. And he rounded us  
16 up and he said, split the time. Don't  
17 let them do the same shit.

18 So in other words, we were  
19 going to do two and a half hours a piece,  
20 instead of us me doing two and them doing  
21 three.

22 Q. You were on from 9:30 until  
23 11:00?

24 A. 9:30 until 12:00.

50 51 52  
1 going up and down the ladders or using  
2 the access covers?

3 A. In number three?

4 Q. Yes.

5 A. No.

6 Q. Do you remember, in number  
7 three, where the ladders and assesses  
8 were located that you were using to get  
9 in and out of the hatch?

10 A. No, I don't remember.

11 Q. Can you describe them for  
12 me, what the access covers were like and  
13 so forth in number three?

14 A. No.

15 Q. Let's go to number two. In  
16 your Answers to Interrogatories you had  
17 indicated that you had climbed in and out  
18 of the D deck, which is the bottom most  
19 deck, three times prior to the accident.  
20 That that means down and up once, down  
21 and up twice, down and up three times?

22 A. No. I would have went down  
23 in the morning, up, that's two, and,  
24 right, down in the afternoon and then

51 52 53  
1 Q. In number three?

2 A. Three hatch, yes.

3 Q. And then you were from 11:00  
4 to 12:00 in number two?

5 A. Right.

6 Q. And then you came back at  
7 1:00?

8 A. I didn't go back in the  
9 hatch at 1:00. I came back.

10 Q. When did you go back in the  
11 hatch?

12 A. Two o'clock.

13 Q. 2:00 to 3:00?

14 A. Yes, until we finished.

15 Q. So the first time you went  
16 in to number two would have been at 11:00  
17 a.m.?

18 A. Yes.

19 Q. And when you went in to  
20 number three, did you use any of the  
21 ladders and access manhole covers to go  
22 in and out of number three?

23 A. Yes.

24 Q. Did you have any trouble

1 back up, which is four.

2 Q. Let's count down the ladder  
3 and up the ladders as --

4 A. Number two hatch, right?

5 Q. Just number two. Let me go  
6 through this carefully. At 11:00 a.m.  
7 you went down the access ladders and  
8 through the manholes to the D deck into  
9 number two at 11:00 a.m.?

10 A. Correct. Around that time,  
11 yes.

12 Q. Approximately?

13 A. Approximately, yes.

14 Q. And then at 12:00 or

15 approximately at that time, you came back  
16 up the same ladders and through the same  
17 accesses?

18 A. Yes.

19 Q. And then you had your lunch  
20 break. And then at two o'clock you came  
21 down, all the way down the same way?

22 A. Same way.

23 Q. And then back up the same  
24 way?

1 A. Yes, sir.  
 2 Q. So that's a total of two  
 3 round trips?  
 4 A. Okay.  
 5 Q. Is that right?  
 6 A. Yes.  
 7 Q. In your Answers to  
 8 Interrogatory it says D deck three times.  
 9 This is Answer to Interrogatory No. 15.  
 10 It doesn't say the hatch number. So that  
 11 is including going down and back in  
 12 number three that day?  
 13 A. Yes.  
 14 Q. So it would be three round  
 15 trips, including the morning work and  
 16 number three.  
 17 So to recap, you worked in  
 18 number three from 9:30 to 11:00. You  
 19 went down at 9:30 in number three, and  
 20 back up at 11:00. That's one round trip.  
 21 Right?  
 22 A. Yes.  
 23 Q. And then at 11:00 you go  
 24 down, and then back and at 12:00 from

1 we already went through the name of the  
 2 vessel. Do you remember if the ship was  
 3 birthed with the port side or the  
 4 starboard side to the pier you were  
 5 working at?  
 6 The starboard side, the  
 7 pointy side, is the right and the port  
 8 side to be to your left?  
 9 A. The nose was facing Jersey.  
 10 So that would have been starboard side.  
 11 Q. So you were kind of facing  
 12 out towards the Delaware River, or the  
 13 ship was?  
 14 A. Yes.  
 15 Q. And when you went into  
 16 number two D at 11:00 a.m., you went down  
 17 with these men that you just described  
 18 for us. Is that correct?  
 19 A. Yes.  
 20 Q. Did you all go down at the  
 21 same time?  
 22 A. No.  
 23 Q. So you would just go down  
 24 and relieve your person. That's the only

55

1 number two?  
 2 A. That's correct.  
 3 Q. That's two. And the last  
 4 time or the third round trip, back down  
 5 and back up at 2:00?  
 6 A. That's correct.  
 7 Q. So I'm clear, the two round  
 8 trips that you did on the ladders and  
 9 through the manholes in number two were  
 10 the same route; you didn't change routes?  
 11 It was the same ladders and access covers  
 12 you went through?  
 13 A. Yes.  
 14 Q. Now, what time did your  
 15 accident happen?  
 16 A. Approximately around quarter  
 17 to 3:00, 2:40, 2:45.  
 18 Q. And had your gang finished  
 19 the hatch at that time, and you were  
 20 leaving?  
 21 A. The gang that I was working  
 22 in finished the hatch, the Jackson gang.  
 23 We were finished.  
 24 Q. And going back a little bit,

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1 thing you were concerned about?  
 2 A. Yes, sir.  
 3 Q. At that time was the  
 4 forklift already on the number two D  
 5 deck?  
 6 A. Yes.  
 7 Q. How many forklifts were in  
 8 there?  
 9 A. Three.  
 10 Q. And you were going to --  
 11 A. That I remember.  
 12 Q. And you were going to  
 13 operate one of them?  
 14 A. Yes.  
 15 Q. And who were the two other  
 16 forklift operators of these fellows? We  
 17 have Williams, Ringgold and Frazier.  
 18 A. Ringgold and Grinnel.  
 19 Frazier would have been the brakeman for  
 20 us. Do you follow me?  
 21 Q. All right. So you had  
 22 Grinnel Williams, and Ringgold and  
 23 yourself operating forklifts. Was there  
 24 a fourth guy in the hatch at the time?

1 A. No.

2 Q. It was just the three of  
3 you?

4 A. Yes.

5 Q. You didn't need anyone to  
6 hook you up, because you were just on  
7 this tray as you described it, and the  
8 elevator as you described it?

9 A. Yes.

10 Q. And when you went down, as  
11 you were going down, did you experience  
12 any problems with -- first of all, were  
13 all of the access covers to the ladder  
14 open as you went down?

15 A. Yes.

16 Q. And as you were going down  
17 that first time, were they all secured in  
18 the open position?

19 A. Yes.

20 Q. Did you check as you went  
21 down each level to be sure that they were  
22 secured?

23 A. No.

24 Q. Did you, as you were going

1 this way, as you can see up here. It's  
2 all oriented the same way. So this would  
3 be the aft end and this would be the  
4 forward end. (Indicating.)

5 MR. GRUBER: And this would  
6 be the starboard side. Do you  
7 follow me?

8 THE WITNESS: Yes.

9 BY MR. WHELAN:

10 Q. And this would be the dock.  
11 (Indicating.) Is the access that you  
12 used the one at the aft end of the number  
13 two hatch or the forward end?

14 MR. GRUBER: We have been at  
15 this a long time. I think you  
16 have to establish whether he  
17 remembers there being two accesses  
18 down there. You are assuming that  
19 there were two.

20 BY MR. WHELAN:

21 Q. Are you aware of whether  
22 there were two accesses down there or  
23 not?

24 A. No, only one.

1 down for the first time at 11:00 o'clock,  
2 did you hold onto the access covers as  
3 support going down the ladders?

4 A. Yes. Or whatever was there  
5 to grab onto. I'm not quite sure. I  
6 don't remember what I grabbed onto.

7 Q. So it would be either the  
8 access cover or whatever was there,  
9 handle or whatever, to grab onto?

10 A. I didn't notice any handles.  
11 There were just covers.

12 Q. Now, you had indicated in  
13 your Answers to Interrogatories -- maybe  
14 we can get into that plan right now --  
15 that the access that you had used was at  
16 the aft end of number two D. Is that  
17 correct?

18 A. To the best of my knowledge.

19 Q. Let's see if we can orient  
20 you here. This is a general arrangement  
21 plan of the LUZON STRAIT. This section  
22 here is the bottom-most deck down, and  
23 this is the number two hatch here.  
24 (Indicating.) And this is the aft end,

1 Q. The access that you used,  
2 where was it located? In your Answers to  
3 Interrogatories you indicate it's at the  
4 aft end.

5 A. It's hard to remember. It  
6 was actually midship. When we came on C  
7 deck, you walked across the deck and  
8 there was another access to go down to D  
9 deck.

10 Q. Okay.

11 A. If wasn't a straight run all  
12 the way down to D deck is what I'm  
13 saying. If you go on that ship you can't  
14 go straight down to D deck from there.

15 Q. Okay.

16 A. In other words, when you are  
17 coming down from the top, you can go  
18 straight down, but in order to get to the  
19 D deck, that has to go -- you had to walk  
20 about another five or six feet to get to  
21 another hatch to go down to the next  
22 level. Do you follow me?

23 Q. Not really. Let me try  
24 this. The accesses that you used to go

1   **in and out of number two, were they**  
 2   **inside of a room or, for lack of a better**  
 3   **word, a deck house-type thing?**  
 4       **In other words, they were**  
 5   **not inside the hatch itself, where the**  
 6   **cargo would be?**

7       A. I don't understand what you  
 8   mean.

9           MR. GRUBER: Do you know  
 10   what an access trunk is?

11   BY MR. WHELAN:

12       **Q. An access trunk. In other**  
 13   **words, the hatch itself, not where the**  
 14   **cargo is stowed, the access cover, it's**  
 15   **at a trunk at the forward end or the aft**  
 16   **end of the ship.**

17       A. I don't remember that.

18       **Q. You don't remember one way**  
 19   **or the other?**

20       A. All I remember is when we  
 21   came down from the top, we went all the  
 22   way down until we got to C deck.

23       **Q. Okay.**

24       A. Once we were on C deck, we

1   was a straight run.

2           Now, the way that ship -- to  
 3   the best of my knowledge, the way I  
 4   remember it is that the hatches were --  
 5   when they folded back, they folded back  
 6   like this. (Indicating.) When I went up  
 7   the later you could not access A or B. C  
 8   hatch was on a bulkhead where the  
 9   elevator was. You walked across the deck  
 10   and there was another access to go down  
 11   to D deck.

12       **Q. You are literally walking on**  
 13   **the gratings?**

14       A. It was an aluminum floor.

15       **Q. And you are actually in the**  
 16   **hatch?**

17       A. We were on top of C deck,  
 18   inside C deck.

19       **Q. You are inside. And maybe I**  
 20   **can get it this way. If you were coming**  
 21   **up from the D deck to the C deck on this,**  
 22   **presumably there's a ladder?**

23       A. Yes.

24       **Q. And when you were on the D**

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1   walked from -- it couldn't have been no  
 2   more than five feet, if that, and then we  
 3   went down to D deck. It was one way in  
 4   and one way out. Once you walked across  
 5   the deck you could go all the way up to  
 6   outside. It wasn't a straight run.

7       **Q. All right, let's start**  
 8   **again. If you are going from A deck, the**  
 9   **top deck, down, was that a straight run?**

10      A. Yes.

11      **Q. Was that --**

12      A. The hatches were open.

13      **Q. All of the access covers**  
 14   **were open?**

15      A. Yes, sir.

16      **Q. My question is, whether it's**  
 17   **in a trunk or whatever it might be,**  
 18   **there's never -- typically there's not a**  
 19   **continuous ladder all the way up? In**  
 20   **other words, you would go up, and it**  
 21   **might be over a little bit and up and**  
 22   **over a little bit?**

23      A. No. From A, from the top of  
 24   the deck, all the way to C deck, there

1   **deck, where you were working, was the**  
 2   **ladder attached to a bulkhead or was it**  
 3   **instead of a trunk room or was it just**  
 4   **right in the middle of the --**

5       A. I think it was attached to  
 6   the bulkhead, if I remember correctly.  
 7           You are talking about the  
 8   hatch, right?

9           MR. GRUBER: No. He's  
 10   talking about the ladder to get  
 11   from the deck of the -- the skin  
 12   of the D deck up to the C deck.  
 13   The ladder.

14       THE WITNESS: The ladder  
 15   itself was on the bulkhead. It  
 16   was incorporated into the --  
 17   adjacent.

18   BY MR. WHELAN:

19       **Q. So if you're climbing up**  
 20   **from the D deck on this ladder, the**  
 21   **ladder is attached to a wall?**

22       A. A wall, right.

23       **Q. It's not like a**  
 24   **free-standing in the middle of the hatch**

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1 type thing?

2 A. No. It's like a bookshelf.

3 Q. If you are coming up from  
4 the D deck and climbing up this ladder  
5 that's attached to the wall, which wall  
6 would it have been?

7 If you are thinking this is  
8 forward, this is aft, and this is D deck  
9 where you were working, as you were going  
10 up this ladder which way were you facing?

11 MR GRUBER: Here is the  
12 starboard side. We are looking  
13 down like a bird into the hatch.  
14 So here is starboard. That means  
15 that would be the forward end,  
16 this would be the aft. That's off  
17 shore. (Indicating.)

18 He wants the know the ladder  
19 that was incorporated into the  
20 bulkhead, which bulkhead was it?

21 THE WITNESS: It would have  
22 been on -- it would have been on  
23 that bulkhead. (Indicating.)  
24 It's hard for me to say without

1 that.

2 Q. One way or the other you  
3 don't remember?

4 A. There was one way in and one  
5 way out, that particular deck.

6 Q. Do you remember whether  
7 there were any handles as you came up the  
8 ladder coming out at any time, including  
9 the time of your accident?

10 A. No.

11 Q. When you came to the top and  
12 you were sticking your head out into C  
13 deck, was the access cover oriented  
14 directly in front of you, to your right,  
15 to your left or behind you?

16 A. Directly in front of me.

17 Q. And as you climbed up there,  
18 was there a handle on the underside of  
19 the access cover?

20 A. Not that I remember. I'm  
21 not sure.

22 Q. And then when you looked to  
23 your left or to your right, was there a  
24 handle on the left or on the right?

1 looking at the ship again.

2 BY MR. WHELAN:

3 Q. Okay.

4 MR. GRUBER: Was there more  
5 than one ladder to get out of D  
6 deck?

7 THE WITNESS: No, there was  
8 only one ladder.

9 MR. GRUBER: That should  
10 help us.

11 BY MR. WHELAN:

12 Q. Whatever ladder that you  
13 used on D deck, that you went down at 11  
14 o'clock, and then you came back up at  
15 12:00, that's the same path you took on  
16 the date of the accident?

17 A. Yes.

18 Q. Did you have to go through a  
19 doorway to get into a trunk or a closet  
20 to go up this ladder or was this  
21 ladder --

22 A. Not that I remember. I  
23 don't remember if I had to go inside of a  
24 closet or a hallway. I don't remember

1 A. I didn't see any.

2 Q. When you came to the top,  
3 each time you came out of the hatch,  
4 which would have been twice, in number  
5 two --

6 MR. GRUBER: No.

7 BY MR. WHELAN:

8 Q. When you departed D deck,  
9 you did that once at 12:00 noon and then  
10 once at 2:45, at the time of your  
11 accident. Let's start with noon.

12 When you came up the first  
13 time at noon, was the hatch access cover  
14 open for the manhole?

15 A. Yes.

16 Q. And did you pull on  
17 something to get up to C deck when you  
18 left at 12:00 noon?

19 A. Yes. You had to grab onto  
20 the hatch.

21 Q. You grabbed onto the  
22 cover --

23 A. Yes, you had to.

24 Q. -- that you were facing when



74  
1 you closed that other part of the floor  
2 you were talking about, when the ship  
3 came into Wilmington could there have  
4 been cargo on top of that cover that you  
5 came up through?

6 A. It's possible.

7 Q. Or was it separate from the  
8 hatch?

9 A. It's possible it could have  
10 been cargo on top of it or up against it.  
11 It's possible. There was cargo on -- if  
12 there was any cargo on C deck I don't  
13 know.

14 Q. You didn't work on C deck?

15 A. No.

16 Q. Now, when you went down  
17 through this accessway at 11 o'clock on  
18 the date of your accident, in the  
19 morning, for the first time, did you see  
20 whether the securing device was secured  
21 to that cover before you went down?

22 A. No.

23 Q. You didn't know one way or  
24 the other?

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1 A. Yes, to pull myself out.  
2 Q. When you typically do that,  
3 do you just like willy-nilly grab the  
4 cover or do you hold onto the ladder and  
5 test it before you use it?

6 A. I'm not sure. Usually when  
7 you pull back on it, it will grab. You  
8 grab a hold of it. I wouldn't have  
9 grabbed it if I thought it would come  
10 back.

11 Q. Back towards you?

12 A. Yes.

13 Q. So what I'm asking is, do  
14 you have a method or whatever, from your  
15 years as a holdman? You said you didn't  
16 know whether it was secure or not because  
17 you didn't look at it?

18 A. Right.

19 Q. Did you have a method or  
20 something that you used as a holdman to  
21 do a little test before you used it to  
22 pull all your weight up?

23 A. No. There is no method, no.

24 Q. How are you sure that

76  
1 A. No.  
2 Q. Did you test it to see if it  
3 was solid before you went down at 11  
4 o'clock?  
5 A. No.  
6 Q. Did you hold onto it when  
7 you went down at 11 o'clock?  
8 A. Yes.  
9 Q. Did it support your weight?  
10 A. Yes.  
11 Q. Now, when you came back up  
12 at 12:00, did you hold onto the cover to  
13 come out or did you put your hands to the  
14 side or on something else when you came  
15 out at 12:00 noon?

16 A. I came out at 12:00? Or  
17 what time did you say, 12:00?

18 MR. GRUBER: When you came  
19 out the first time.

20 THE WITNESS: Yes.

21 BY MR. WHELAN:

22 Q. What did you hold onto?

23 A. The cover

24 Q. The cover itself?

77  
1 someone hasn't undone it, before you rely  
2 on it?  
3 A. Well, you don't know.  
4 Q. Okay. Now, any of the times  
5 that you came up through this same access  
6 that was involved in your accident, did  
7 you see any type of handles not attached  
8 to the access cover?

9 A. Not that I remember.

10 Q. Do you remember what the  
11 color of the access cover was, the  
12 underside of it, as you faced it and it  
13 was open?

14 A. Green, like a lime green,  
15 light green or something.

16 Q. And you said the floor on  
17 the ship was aluminum?

18 A. Yes.

19 Q. And when you went back down  
20 at two o'clock, did you check to see if  
21 it was secure at that time, the access  
22 cover going down to two D?

23 A. I didn't check to see if it  
24 was secure, I just went down the ladder.

1       **Q.** And again, did you use that  
2 to support your weight going down or did  
3 you --

4       A. Yes.

5       **Q.** And then when you came out  
6 at 2:45 and you came up the ladder, were  
7 you the first one out of the hold or did  
8 someone go out before you?

9       A. I would have been either the  
10 second man -- I was the second man.

11     **Q.** You were the second man out?

12     A. Yes.

13     **Q.** Who was the first guy out?

14     A. I think Ringgold went up  
15 before me. I think it was Ringgold, me  
16 and then Blue -- Grinnel was after me.

17     **Q.** First Ringgold went out,  
18 then you, and then Blue, Grinnel?

19     A. Yes.

20     **Q.** When Ringgold went out, did  
21 you wait on D deck and watch him?

22     A. Yes. He was gone. We  
23 loaded the machines up and it was just  
24 Grinnel and I down there. He went up

1       A. However long it took me to  
2 load the machine onto the plate. I don't  
3 know how long that was.

4       **Q.** In other words, all three of  
5 you were on machines. First Ringgold put  
6 his machine on the plate and then he  
7 left?

8       A. Right.

9       **Q.** And then you put your  
10 machine on the plate and then you left?

11     A. Actually, the first thing we  
12 did was gathered up the plates. Blue and  
13 I gathered the plates up.

14     **Q.** These are the steel plates?

15     A. That cover the holes. As  
16 you put a hole in the floor or bend the  
17 aluminum. Or sometimes they will  
18 separate them so you have to put a plate  
19 on the line. So Blue and I put three or  
20 four plates down. We gathered them up  
21 and put them on the pan, which -- and  
22 then I put one machine on there and Blue  
23 put the other machine on there. And I  
24 put the last one in the center and I

79     1 before us.

2       **Q.** Did you actually see him go  
3 through the access cover, up the ladder  
4 and through the access cover?

5       A. I watched him leave. I  
6 didn't stand there and watch him go up  
7 the ladder.

8       **Q.** Did he yell anything back to  
9 you, like watch out or anything?

10     A. No.

11     **Q.** Did you talk to him after  
12 your accident?

13     A. No.

14     **Q.** Did he ever indicate that he  
15 had any trouble using the access cover or  
16 the ladder going from two D to two C?

17     A. No.

18     **Q.** No, he never said anything?

19     A. No, he never said nothing to  
20 me about something being wrong.

21     **Q.** And then Ringgold went out.  
22 And how soon after he left did you leave,  
23 was it like a couple of seconds or  
24 minutes?

80     1 braced it. And then the bars would come  
2 down and the elevator would go up.

3       **Q.** You said like within a  
4 minute after Ringgold, you went up?

5       A. Yes. We were finishing.  
6 Yes.

7       **Q.** And then Ringgold, again,  
8 didn't say anything to you about any  
9 problems with the cover?

10     A. No, sir.

11     **Q.** And then you went up, and  
12 was Blue behind you? Grinnel, Blue, was  
13 he behind you?

14     A. Yes.

15     **Q.** And was he actually on the  
16 ladder as you were on the top of the  
17 ladder when the accident occurred?

18     A. No.

19     **Q.** Where was he when your  
20 accident occurred?

21     A. I don't know. I wasn't  
22 looking. He was behind me.

23     **Q.** Somewhere behind you?

24     A. Yes.

1       **Q. But you are sure he wasn't  
2 on the ladder behind you?**

3       A. No, he wasn't behind me on  
4 the ladder.

5       **Q. In terms of the top rung of  
6 the ladder, which is at the very top,  
7 where did you have -- how far up the  
8 ladder did you get in relation to the top  
9 of the ladder?**

10     A. I really can't say. I  
11 really don't remember. I had more than  
12 my torso -- I had half myself out of it.

13     **Q. You had half of yourself out  
14 of it?**

15     A. Yes.

16     **Q. If you drew a diagram, you  
17 would get like your beltline, and below  
18 would have been still in D deck, and the  
19 rest would have been above and in C deck?**

20     A. No. My beltline would have  
21 been above D deck.

22     **Q. Would have been above D  
23 deck?**

24     A. It was in between the

1       positioning myself with my left hand. I  
2 had a hold of myself. When I did, I  
3 pushed the lid up, thinking it was a  
4 counterweight. It didn't do that. It  
5 was coming back at that time.

6       That's when Sean, he grabbed  
7 the lid and he had my jacket or my suit.  
8 He seen I was sliding down to D deck. I  
9 was trying to get -- actually, my legs  
10 were probably -- if you say this would be  
11 C deck, this would be D deck.  
12 (Indicating.) As I fell back, my knees  
13 would have been on top of D deck ceiling.  
14 Do you know what I mean?

15     **Q. Up against the ceiling?**

16     A. Up against the ceiling, yes.  
17 So I'm figuring --

18     **Q. In the accident report it  
19 says you hit your kneecaps?**

20     A. That's probably right.

21     **Q. So then a better  
22 description, other than the beltline, is  
23 your rear end or your buttocks were  
24 already at C deck level --**

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1 opening.

2       **Q. And then where did you have  
3 your hands at the time of your accident;  
4 what were you holding onto with your  
5 right and your left hand?**

6       A. The escape hatch.

7       **Q. With both hands?**

8       A. Yes, sir.

9       **Q. And you had said you had  
10 gotten to the point where at least half  
11 of your torso or below your beltline was  
12 in the D deck level and --**

13     A. Not below.

14     **Q. Tell me again.**

15     A. It would have to be above.

16     Because when I fell, I fell back and my  
17 legs were outside -- they weren't in the  
18 ladder -- they weren't in the cylinders  
19 of the ladder. So when I fell back, I  
20 fell back just like that, bam. And my  
21 legs kicked out.

22     I assume I put my hands on  
23 first thing. The lid was on me, on my  
24 right hand. I was holding myself --

1       A. Yes.  
2       **Q. -- when the cover came down?**  
3       A. When it turned loose.  
4       **Q. So I get an understanding of  
5 how the accident occurred, as you were  
6 coming up, the cover -- it sounds like  
7 the cover was holding for a while?**

8       A. Yes.

9       **Q. And then it gave way?**

10     A. Yes.

11     **Q. Now, why was Sean in that  
12 area? Did he happen to be in the area at  
13 that time?**

14     A. He was the elevator man, the  
15 button man.

16     **Q. And he was positioned on C  
17 deck?**

18     A. Yes, sir.

19     **Q. The elevator man is right  
20 next to --**

21     A. Nobody. He's sitting there  
22 on the wall. There's a wall there with a  
23 button that indicates to the crane driver  
24 that it's okay to lift. He's the deckie.

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1 MR. GRUBER: Or hatch  
2 tender.

3 BY MR. WHELAN:

4 Q. Could you see on this plan  
5 where he would be positioned? If you  
6 can't, that's fine. These are the hatch  
7 covers.

8 MR. GRUBER: This is the  
9 forward end here. (Indicating.)

10 THE WITNESS: I couldn't  
11 really say.

12 BY MR. WHELAN:

13 Q. That's fine. But he was  
14 definitely on C deck?

15 A. Yes. Because I said, clear,  
16 it's okay to take it out.

17 Q. And then when you were kind  
18 of trapped or when this cover came down,  
19 about how far was the location of where  
20 your accident occurred from where Sean  
21 would have been standing with the button?  
22 Best estimate.

23 A. I don't know. Five feet,  
24 maybe, six feet. I don't know.

1 A. In between C and D.

2 Q. When you fell back, what  
3 were you lying on, was it aluminum  
4 gratings, was it a steel deck or  
5 something else, if you remember?

6 A. I don't remember. It was  
7 all steel and aluminum.

8 Q. I'm trying to see if that  
9 will help us straighten out if it was in  
10 a trunk area or actually out in the cargo  
11 hold area.

12 Do you remember, as you were  
13 there, did it appear that you were out in  
14 the middle of the cargo hold or did it  
15 appear that you were in a trunk area?

16 A. No. I was in the middle of  
17 the cargo hold.

18 Q. Then you tried to push it  
19 off you, and that's when it came down on  
20 you once and you fell back onto the deck?

21 A. Right.

22 Q. And then you tried to push  
23 it up, because you said it might be  
24 spring-loaded?

1 Q. The other end of the hatch  
2 or closer?

3 A. No, no, he was by the  
4 ladder.

5 Q. He was close to that area?

6 A. Yes. He was -- I don't know  
7 if he was yelling or what he was doing.  
8 Maybe taking his clothes off. I don't  
9 know what he was doing at the time.

10 Q. And so eventually it gave  
11 way, and you fell down, and you got your  
12 knees trapped on the ceiling of D deck?

13 A. Right.

14 Q. And you were on your back?

15 A. Yes, sir.

16 Q. You fell backwards?

17 A. Yes.

18 Q. Did you fall all the way  
19 back?

20 A. I went back and hit the  
21 deck.

22 Q. You hit the C deck?

23 A. Right.

24 Q. And that would have been --

1 A. Yes. You try to get it off  
2 of you.

3 Q. And that's when Sean came  
4 and helped you?

5 A. Right.

6 Q. Did he grab the cover and  
7 you at the same time?

8 A. Yes. He seen me kicking. I  
9 was struggling, I guess. And he saw  
10 that, and he grabbed the cover and he had  
11 my suit. I had a freezer suit on. He  
12 pulled me up. I was sitting on my  
13 backside, sitting on C deck. My feet  
14 were dangling between C and D through the  
15 manhole.

16 Q. You were off the ladder at  
17 that point?

18 A. Yes.

19 Q. Did he pull you out and away  
20 from this access cover at that point?

21 A. He helped me up. He asked  
22 me was I all right and helped me up.

23 Q. Did you get up on your feet  
24 at that time?

1 A. Yes.  
 2 Q. And at that time when you  
 3 got up on your feet, was the access cover  
 4 closed?  
 5 A. No.  
 6 Q. It was open?  
 7 A. Sean had pushed it open. He  
 8 was fiddling with it. I don't know what  
 9 he was doing exactly.  
 10 Q. Did you take a look at the  
 11 securing device; can you tell us what it  
 12 was or what it looked like?  
 13 A. It looked like -- reminded  
 14 me of a hook on a screen door.  
 15 Q. Like a round eye-and-hook  
 16 thing?  
 17 A. Yes, yes.  
 18 Q. So it looked something like  
 19 a hook, like this, and it goes through an  
 20 eye like that? (Indicating.)  
 21 A. Close. It had a hook like  
 22 that, but I don't remember what kind of  
 23 an eye it went through.  
 24 Q. But the typical hook and eye

90 1 it.  
 2 Q. He would be the one that  
 3 would know that?  
 4 A. Yes.  
 5 Q. But you, with your own two  
 6 eyes, can't tell us whether it was bent  
 7 or broken. Is that correct?  
 8 A. That's correct.  
 9 Q. You didn't see it with your  
 10 own eyes, is what I'm saying?  
 11 A. Right.  
 12 Q. You weren't really looking  
 13 for that at the time?  
 14 A. No, I wasn't.  
 15 Q. What did you do next? You  
 16 are standing up there, you saw Sean  
 17 fiddling with this thing, and you saw the  
 18 securing device. Then what did you do?  
 19 A. Sean helped me up, he asked  
 20 me was I all right. He said -- my  
 21 nickname is J.T. He said J.T., do you  
 22 want me to call the basket for you? I  
 23 said no, Sean, I'm fine. Just follow me  
 24 up.

91 1 that you think would be on a wooden  
 2 screen door?  
 3 A. Exactly.  
 4 Q. You are not sure of the eye  
 5 part of it, but you know it had a hook?  
 6 A. Yes.  
 7 Q. Was it secured or unsecured  
 8 when you saw it?  
 9 A. What do you mean "when I saw  
 10 it?"  
 11 Q. You described the hook  
 12 securing device.  
 13 A. When he was fooling with it?  
 14 Q. Yes. Did he resecure it?  
 15 A. He tried. He tried and it  
 16 wouldn't go back.  
 17 Q. Why was that?  
 18 A. It wouldn't stay attached.  
 19 Do you follow me? Almost like this was  
 20 the hook, it would come off and it looked  
 21 like it was bent out of shape or broke.  
 22 Q. Did you notice that it was  
 23 bent or broken?  
 24 A. No. Sean was fooling with

93 1 I had a lot of pain in my  
 2 leg and my back. And I was afraid of  
 3 falling back. I didn't want to fall back  
 4 down if I lost strength.  
 5 Q. So then did you climb up  
 6 through the ladders the same way you came  
 7 down?  
 8 A. Yes. When I walked up on C  
 9 deck, I climbed up out the hatch, C, and  
 10 then B, and then A.  
 11 Q. The same way you came down?  
 12 A. Yes.  
 13 Q. In the area of this access  
 14 cover and the ladder that you were  
 15 climbing out at the time of your accident  
 16 was there enough light to see everything  
 17 that you were doing?  
 18 A. Yes, I guess.  
 19 Q. Darkness or lack of light  
 20 didn't have anything to do with your  
 21 accident. Is that correct?  
 22 A. No, no.  
 23 Q. No, it's not correct?  
 24 A. No. It was enough light.

1           **Q.** And was there any oil or  
 2 grease or slippery substance in the area  
 3 that had anything to do with your  
 4 accident?

5           A. I didn't see any.

6           **Q.** So your accident was caused  
 7 by this securing device either coming  
 8 undone or wasn't secured?

9           A. That's correct.

10          **Q.** You don't know which?

11          A. I don't know which, no.

12          **Q.** When you came up to the top  
 13 of that ladder, where the access cover  
 14 was that came down on you, could you  
 15 describe for me the angle at which the  
 16 cover was?

17          A. No, not really.

18          **Q.** Was it kind of like straight  
 19 up?

20          A. I don't remember if it was  
 21 straight up, leaning back or what.

22          **Q.** You don't recall?

23          A. No, I'm not sure.

24          **Q.** I may have asked you this,

1 the other?

2           A. No

3           **Q.** Now, after the accident, did  
 4 you ever speak to anyone else that had  
 5 any trouble with the access cover?

6           A. No

7           **Q.** Did anyone ever say to you,  
 8 hey, John, I've I had the same problem,  
 9 or anything like that?

10          A. No

11          **Q.** As the cover came down on  
 12 you the first time at the time of your  
 13 accident, did you hear anything like  
 14 something braking?

15          A. No. I didn't notice, no.

16          **Q.** Now, as you went up on the  
 17 way out, after the accident, when you  
 18 went out through the B and A decks, did  
 19 you pull on those covers the same way you  
 20 did this one, to get out?

21          A. Whatever there was available  
 22 for me to get out of the hatch with.

23          There is no special way I climb out.

24          **Q.** Do you ever just, rather

1 and I apologize. But on the underside of  
 2 that cover, was there any sort of handle  
 3 that would open or close the cover or was  
 4 it a blank cover?

5           A. I don't remember.

6           **Q.** You don't recall?

7           A. No. I think it was just a  
 8 cover.

9           **Q.** You don't recall actually  
 10 grabbing onto a handle?

11          A. No.

12          **Q.** You would have grabbed on  
 13 the edges of the cover?

14          A. Yes, yes.

15          **Q.** When you came up the ladder  
 16 just before the accident, and you came  
 17 out, your head and body were coming out  
 18 of D deck onto C deck, and you grabbed  
 19 onto the cover when it was in the open  
 20 position, did you grab onto the sides  
 21 with your right and left hand or the top  
 22 of the cover?

23          A. I don't remember.

24          **Q.** You don't recall one way or

1 than hold onto the cover, put your arms  
 2 to the side of the deck and go out that  
 3 way?

4           A. No

5           **Q.** It would always be on the  
 6 cover --

7           A. No. If a rail was there or  
 8 whatever was there, any access for you to  
 9 get out. It's hard to lift your body out  
 10 like that. (Indicating.)

11          **Q.** Meaning pushing yourself up  
 12 with your palms?

13          A. Yes. How would you get out?  
 14 You could roll onto the deck, I guess.

15          **Q.** So you haven't seen any  
 16 photographs of this access cover or  
 17 anything like that?

18          A. No, I haven't.

19          **Q.** The only photograph that I'm  
 20 aware of, which your attorney provided to  
 21 me, just shows the ship in general. Have  
 22 you ever seen that before?

23          A. The ship?

24          **Q.** This photograph.

1 A. Yes.  
 2 Q. Other than that photograph,  
 3 which we will mark as Turner-2, you  
 4 haven't seen any other photographs of the  
 5 accident scene or the access cover or  
 6 anything like that?  
 7 A. Nope.  
 8 - - -  
 9 (Whereupon, Exhibit Turner-2  
 10 was marked for identification.)  
 11 - - -  
 12 BY MR. WHELAN:  
 13 Q. Do you know who took this  
 14 photograph, which is marked as Turner-2?  
 15 A. Yes.  
 16 Q. Who?  
 17 A. Joe Selvaggi.  
 18 Q. And he didn't take any other  
 19 photographs of the ship, as far as you  
 20 know?  
 21 A. Not that I know of.  
 22 MR. WHELAN: Let's mark this  
 23 as the next exhibit.  
 24 - - -

98 1 A. Yes.  
 2 Q. Did anyone from DRS ever  
 3 tell you that you should look at the  
 4 securing devices before you enter the  
 5 accessway or use the accessway?  
 6 A. No.  
 7 Q. Is that something you've  
 8 ever done as a holdman or a longshoreman,  
 9 make sure that the securing device is  
 10 secure before you go down into a deck?  
 11 A. Not really, no.  
 12 Q. And then the Description is,  
 13 "While climbing escape hatch from D to C  
 14 deck, escape hatch cover unlatched from  
 15 it's securing. Mr. Turner fell back to C  
 16 deck and said cover struck him in the  
 17 left leg at the kneecap. Man also claims  
 18 slight backache."  
 19 Is that an accurate  
 20 description? Is that what you told them,  
 21 in other words?  
 22 A. Maybe at the time. He was  
 23 asking me -- we were in his office, and  
 24 my leg and back was bothering me. And we

99 1 (Whereupon, Exhibit  
 2 Turner-3 was marked for  
 3 identification.)  
 4 - - -  
 5 BY MR. WHELAN:  
 6 Q. We have marked as Turner  
 7 Exhibit-3 a document called DRS  
 8 Supervisor's Accident Investigation.  
 9 Have you seen this document before?  
 10 A. Yes.  
 11 Q. Is that your signature on  
 12 the lower left-hand corner?  
 13 A. Yes.  
 14 Q. This appears to be signed by  
 15 Clifford Lasch and somebody Jackson, I  
 16 think. Looks like two people signed it.  
 17 Do you recognize any of those signatures  
 18 on the right side?  
 19 A. No.  
 20 Q. It says under Comments,  
 21 right above the two signatures, "Seems as  
 22 though securing pin worked out of the  
 23 slot. Should be inspected before  
 24 entering deck." Do you see that?

101 1 are like you and I are talking.  
 2 Q. Does that generally sound  
 3 accurate to you?  
 4 A. Close.  
 5 Q. What is not close? Is there  
 6 anything that is not close?  
 7 A. Well, I don't think the  
 8 lid -- I think I hit my knee or my leg  
 9 underneath the deck. I think he was just  
 10 writing it down when I said it.  
 11 Q. Anything else that is not  
 12 accurate?  
 13 A. That's about accurate, yes.  
 14 Q. And then this indicates that  
 15 you were taken to Christiana Care,  
 16 Wilmington Hospital, or you went there?  
 17 A. I was taken to Wilmington.  
 18 Q. Wilmington, okay. How did  
 19 you get from the terminal to the hospital  
 20 when you first went to the hospital after  
 21 the accident?  
 22 A. I drove.  
 23 Q. You got off at 2:45 or three  
 24 o'clock or so. Did you go right away or

1   **did you go home first; how did you  
2   proceed?**

3       A. I went to Clifford's office  
4   and from Clifford's office we went to  
5   Wilmington Hospital, to occupational  
6   health, took the drug and alcohol test.  
7   From there, Cliff left. He said, John,  
8   you will be okay, I will see you later.  
9   And I seen a doctor. I don't remember  
10   her name.

11      **Q. Okay.**

12       A. They x-rayed my knee, and I  
13   asked them what about my back, because it  
14   was really bothering me more and more.  
15   And she said, take this ibuprofen or  
16   whatever they gave me at the time. I  
17   don't remember. And come back Tuesday or  
18   something like that, in a couple of days  
19   or something like that.

20      **Q. And did you do that?**

21       A. Prior to then, I went to my  
22   doctor on the 12th. I had very, very  
23   uncomfortable pain radiating and shooting  
24   down my leg and in my back.

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1   Katz, because my problem was stemming  
2   from my back. And he said I had disc  
3   problems, and he had me talk to a spine  
4   specialist.

5      **Q. And Dr. Katz was the spine  
6   specialist?**

7       A. Yes, sir.

8      **Q. And on July 3, 2002, you had  
9   surgery?**

10       A. Yes, sir.

11      **Q. Have you had any surgery  
12   since that time?**

13       A. No, sir.

14      **Q. And what was the surgery  
15   that Dr. Katz performed, as far as you  
16   know?**

17       A. He did a decompression, I  
18   think, at L5. He did a discectomy, took  
19   out the bone. I had a cracked disc, bone  
20   fragments he took out.

21      **Q. Did that give you any relief  
22   of your symptoms, your radiating pain?**

23       A. It corrected some of the  
24   pain on the outside of the leg.

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1      **Q. Again, this is your left  
2   leg?**

3       A. Yes.

4      **Q. And you went to Dr. Song?**

5       A. Yes, my family doctor. My  
6   wife took me to the doctor.

7      **Q. And then you went back to  
8   this other place after Dr. Song?**

9       A. No. I went to Dr. Song, and  
10   he recommended I see -- First Day  
11   Orthopedics, a Dr. Bodenstab.

12      **Q. Had you ever been treated by  
13   Dr. Bodenstab before?**

14       A. No.

15      **Q. Is the doctor that you saw  
16   at the clinic, Dr. Maria DeJoseph?**

17       A. I guess.

18      **Q. And you continued to treat  
19   with both Dr. Bodenstab and Dr. Song for  
20   a period of time?**

21       A. I went to my doctor, who  
22   sent me to Dr. Bodenstab. Dr. Bodenstab  
23   took x-rays and MRIs. From Dr. Bodenstab  
24   I went to -- he recommended I see Dr.

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1      **Q. And then you saw a Dr.  
2   Yahadi?**

3       A. He's a pain management --  
4   Yahadi is a pain management specialist.

5      **Q. When is the last time you  
6   saw him?**

7       A. I don't remember.

8      **Q. I have May 2003.**

9       A. Yes.

10      **Q. Have you seen him since  
11   then?**

12       A. No, I haven't.

13      **Q. And then I have the last  
14   examination by Dr. Katz as January 2004.  
15   Have you seen him --**

16       A. Was it January?

17      **Q. 2004. That's almost a year  
18   ago. Have you seen him since then? When  
19   is the last time you saw him?**

20       A. I think it was August.

21      **Q. 2004?**

22       A. Yes.

23      **Q. What about Dr. Bodenstab,  
24   are you now limited to Dr. Katz or did**



1           **Q. Getting back to your medical  
2 condition, do you presently drive a car,  
3 your truck or whatever?**

4           A. Occasionally.

5           **Q. Do you use that to get  
6 around?**

7           A. My wife usually drives.

8 Sometimes I might get my medicine or go  
9 to my doctor's appointment if my father  
10 can't take me.

11          **Q. Do you have the same pickup  
12 truck that you described earlier or do  
13 you have a different car?**

14          A. I have a truck.

15          **Q. A truck?**

16          A. Yeah.

17          **Q. Is it an automatic or a  
18 stick?**

19          A. Automatic. I don't even  
20 drive it too much any more.

21          **Q. And what kind of truck is  
22 it?**

23          A. Ford Ranger.

24          **Q. Getting back to your**

110         1 haven't done normal chores that I used to  
2 do.

3           I'm a very clean person with  
4 the housekeeping. I used to do a lot of  
5 vacuuming, washing the dishes. I was  
6 always doing something around the house,  
7 fixing this, repairing that, replacing  
8 this. I'm limited. The pain that I'm  
9 in, it limits me. It exhausts me, it  
10 really does. Especially if I get to  
11 doing things.

12          **Q. So you used to do household  
13 chores that you can't do now?**

14          A. I did the outside chores,  
15 the landscaping, I did everything, the  
16 painting. I did whatever needed to be  
17 fixed or whatever needed to be done. A  
18 house needs work 24/7.

19          **Q. Do you have a large piece of  
20 property; is it a single home family?**

21          A. Yes.

22          **Q. So there's grass to be cut?**

23          A. Landscaping. I don't have  
24 any grass. It has to be weeded, mulched.

111         1       **injuries and so forth, is there anything  
2 you were doing recreationally before the  
3 accident that you can't do now?**

4        A. Oh, everything. I mean, I  
5 used to fish, I used to play ball with  
6 the kids. My pain limits me from doing  
7 just -- things I used to like to do,  
8 anyway. Most of the time I'm exhausted  
9 from the pain or tired.

10       If I walk -- I was trying to  
11 walk a little bit and it hurt my back so  
12 much that I couldn't go but so far. I'm  
13 more afraid of people now.

14       There was an incident about  
15 a few months ago where a guy approached  
16 me, and I was afraid he was going to do  
17 something to me. I'm skeptical of  
18 people.

19       **Q. Are you afraid you can't  
20 defend yourself?**

21       A. Yes. If my house caught on  
22 fire I couldn't get outside. Hopefully,  
23 one of my sons would be there. I haven't  
24 had sex in two years or longer. I

112         1       Right now she was talking about bulbs, so  
2 I have to plant them for the spring.

3       **Q. And who does that now, your  
4 children?**

5       A. No. I hire a guy that comes  
6 around, yard guy.

7       **Q. Anything else that you used  
8 to do before that you can't do now, other  
9 than what you described?**

10       A. I don't drive long distances  
11 any more. I can't. It gets hard to --  
12 it's difficult sitting in this chair for  
13 a long time.

14       **Q. Have you been on any  
15 vacations since your accident?**

16       A. No. My wife and children  
17 do. They have been away several times.  
18 I haven't tried, really. I wanted to see  
19 my daughter, but she'll be home. I  
20 didn't take the trip.

21       **Q. Where is she in school?**

22       A. Atlanta.

23       **Q. Atlanta, Georgia?**

24       A. Yes.

1           **Q. What sort of fishing did you  
2 used to do?**

3           A. All kinds.

4           **Q. Freshwater, salt water?**

5           A. Fly fishing, salt water.

6 Just going out, having a peaceful time.

7           **Q. When is the last time you  
8 got a freshwater license?**

9           A. Oh, never got no license.

10 You don't need a license to fish. That's given by God, that's free, like water, should be free.

13           **Q. How often would you say you  
14 used to fish before?**

15           A. Every time I could get a chance.

17           **Q. What would you fish for,  
18 what kind of fish?**

19           A. Just to go out there and fish. I would go out there -- I usually would go by myself. There's a place up there in Pennsylvania -- I can't think of the state park. There's a little -- you go there to fish, or down to Brandywine.

114           **1 own, were you?**

2           A. No. Just with the guys when I could.

4           **Q. Now, in your lifetime have  
5 you ever been convicted of a crime?**

6           A. No.

7           **Q. We are almost done. Let me  
8 check my notes.**

9           A. I've told Dr. Chiang, I also have experienced pain going in my arms, and my fingers have been numb, and my hand gets numb sometimes when I sit, like now.

14           **Q. This is your left knee?**

15           A. Yes. And I get severe headaches. I've never had these headaches before. I will mention it to my family doctor, too.

19           **Q. Now, is there any plan to  
20 get further surgery?**

21           A. I'm still thinking about it.

22           **Q. Is that something Dr. Katz  
23 is recommending?**

24           A. Yes.

115           **1 Now they have the mounties down at  
2 Brandywine.**

3           **Q. The mounties?**

4           A. The park rangers. It used to be you didn't need a license. So I might go off a bank or go down with a few guys in Maryland, they have a little fishing home. The back of the bay. I wouldn't fish nothing down there.

10           **Q. At least not after the oil  
11 spill.**

12           A. No. They are glowing in the dark.

14           **Q. You said you couldn't play  
15 ball with your kids and stuff. You mean  
16 like basketball?**

17           A. I have three sons playing for the same school. My youngest boy, who is 14, just made the JV and I would like to show him a few things, but I can't do it. I love baseball. Baseball is the love, but I love basketball, too.

23           **Q. Before your accident, you  
24 weren't involved in any leagues of your**

117           **1 Q. What sort of surgery is he  
2 recommending?**

3           A. Fusion.

4           **Q. Spinal fusion?**

5           A. Yes.

6           **Q. At the time of your  
7 accident, were there any crew members in  
8 the vicinity, the ship's crew, in the  
9 vicinity of your accident?**

10           A. I didn't see any.

11           **Q. Were there any in the cargo  
12 hold that you were working in at the  
13 time, from 2:00 to 2:45?**

14           A. No.

15           **Q. Did you ever report your  
16 accident to the ship's crew?**

17           A. No.

18           **Q. Did you have any discussion,  
19 yourself, with anyone from the ship's  
20 crew?**

21           A. No.

22           **Q. Are you aware of anyone else  
23 that had discussions or made complaints  
24 of any type to the ship's crew?**

1 A. No.  
 2 Q. Mr. Turner, do you know who  
 3 opened that lid for the first time, on  
 4 the date of your accident?

5 A. No.  
 6 Q. Or who secured it?

7 A. No.  
 8 Q. But it wasn't you?  
 9 A. No, it wasn't me. It was  
 10 open.

11 Q. Do you know whether or not  
 12 the hook that you described that you saw  
 13 after the accident was in place and  
 14 secure when you first started coming out  
 15 of the hold at the time of your accident?  
 16 Could you tell from the feel of it?

17 A. No.

18 Q. So you are not sure whether  
 19 there was any resistance or not, from the  
 20 hook being secured?

21 A. I didn't notice it.

22 Q. Did it seem to you, when you  
 23 came up through the opening onto the C  
 24 deck, that it just came right down as

1 ---  
 2 C E R T I F I C A T E  
 3

4 I hereby certify that the  
 5 witness was duly sworn by me and the  
 6 deposition is a true record of the  
 7 testimony given by the witness.  
 8  
 9

10  
 11 ----- Pamela J. Gober Bracic  
 12 RPR  
 13 Commissioner  
 14 Dated: December 23, 2004  
 15  
 16

17 (The foregoing certification  
 18 of this transcript does not apply to any  
 19 reproduction of the same by any means,  
 20 unless under the direct control and/or  
 21 supervision of the certifying reporter.)  
 22 ---  
 23  
 24

119  
 1 soon as you got to a certain point or did  
 2 it seem like it was holding your weight  
 3 and then it gave way?

4 A. It seemed like it was  
 5 holding my weight and then gave way.

6 MR. WHELAN: Those are all  
 7 the questions I have. Thank you  
 8 very much.  
 9

10 (Whereupon, the deposition  
 11 concluded at 4:24 p.m.)  
 12

121  
 1 LAWYER'S NOTES  
 2 PAGE LINE

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN TURNER : CIVIL ACTION

:  
vs.  
:  
:

B.V. SHIPPING COMPANY :  
LUZON STRAIT (GRONINGEN) : NO. 04-CV-0936

**AMENDED COMPLAINT**  
**Jury Trial Demanded**

1. Plaintiff John Turner is a citizen and resident of the State of Delaware.
2. Defendant B.V. Shipping Company Luzon Strait (Groningen) is a business organization organized and existing under and by virtue of the laws of a governmental body other than the Commonwealth of Pennsylvania, with its principal place of business located in Groningen, Netherlands.
3. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1332, there being diversity of citizenship between the parties and the amount in controversy, exclusive of interest and costs, being in excess of Seventy-Five Thousand Dollars (\$75,000.00).
4. On or about November 8, 2002 and at all times material hereto, defendant owned, managed, operated, possessed and controlled the M/V Luzon Strait in foreign commerce.
5. On or about November 8, 2002 the M/V Luzon Strait was in navigable waters of the United States and moored at the Port of Wilmington, Wilmington, Delaware.
6. On or about November 8, 2002 and at all times mentioned herein, plaintiff was an employee of Delaware River Stevedores in the capacity of a longshoreman and was aboard the M/V Luzon Strait as a business visitor in connection with the performance of cargo operations being conducted thereon.
7. On or about November 8, 2002 plaintiff, while in the course of performing his duties as



aforesaid, was caused to sustain serious injuries due to the carelessness and negligence of defendant B.V. Shipping Company Luzon Strait (Groningen) by its agents, servants, workmen and employees.

8. By reason of the carelessness and negligence of the defendant as aforesaid, the plaintiff was caused to sustain severe injuries to his left knee and back; he sustained contusions to the left knee with chondromalacia; he sustained disc herniations at L2-3 and L4-5; he sustained other orthopedic, neurological and internal injuries; he sustained severe shock and injury to his nerves and nervous system; he has in the past required and may in the future continue to require medicines, medical care and attention; he has in the past been and may in the future be compelled to expend monies and incur obligations for such care and attention; he has in the past suffered and may in the future continue to suffer agonizing aches, pains and mental anguish; he has in the past been and may in the future continue to be disabled from performing his usual duties, occupations and avocations.

WHEREFORE, plaintiff claims damages of the defendant a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with pre-judgment interest and costs, and brings this action to recover same.

POTTER, CARMINE & LEONARD, PA

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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of Plaintiff's Amended Complaint to be served by hand delivery, upon counsel for defendants at the addresses listed:

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Attorneys for Defendant



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STANLEY B. GRUBER

Dated:

11/08/04